

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Abingdon Division**

WILLIAM D. CARMACK,

Plaintiff,

v.

COMMONWEALTH OF VIRGINIA, *et al.*,

Defendants.

Civil Action No. 1:18-cv-31

DECLARATION OF JUSTIN BARBOUR

I, Justin Barbour, declare that the following facts are true to the best of my knowledge, information and belief:

1. I am the eDiscovery Manager at Superior Document Services (“SDS”), a position I have held since February 23, 2015. SDS specializes in electronic discovery. The Commonwealth of Virginia, the Southwest Virginia Higher Education Center (“Center”), and David Matlock, retained our company to process electronic data requested by the Plaintiff, William D. Carmack, and copy it in a usable form. I have personal knowledge of the facts in this Declaration.

2. SDS maintains a processing database using Nuix Workstation, specialized e-discovery software that indexes electronic documents found within structured and unstructured data. SDS used this software to identify emails and attachments contained in the six Microsoft Outlook PST files received for conversion and production. PST files are compressed files that can contain email, calendar, contact and task data exported from e-mail applications such as Microsoft Outlook.

3. I have reviewed the ESI Stipulation that the parties signed on November 15, 2018.

4. On December 20, 2018 Ryan Hardy, counsel for the Center, provided to SDS approximately 1.82 gigabytes of emails for processing and conversion. These emails were formatted as PST files. Per Assistant Attorney General Hardy's instructions, SDS processed and converted the PST files into .TIFF files as well as PDF files. TIFF files and PDF files are images of a document designed to present the document in a paged format similar to if the document were printed. These formats are preferred to native or near-native formats for their ease of review, their ability to include production numbering and endorsements, and are generally provided for the purpose of reviewing in an e-discovery review database. SDS provided single page TIFF files per section 2 in the ESI stipulation. SDS additionally provided the productions in PDF format for offline review, or outside of an e-discovery review database.

5. A true and accurate invoice (No. 976053) reflecting the work SDS performed and charged to the Center has been attached hereto as **Exhibit 1**.

6. "File Conversions" describes the process of converting original or "native" documents into a TIFF or PDF format. These converted files, which retain the original format and layout, are used to prepare electronic documents for production. SDS performed this process per Section 2 of the ESI Stipulation.

7. "Image endorsing" describes the process of affixing production numbering or endorsements (such as confidentiality designations) to document images. This process creates additional space at the bottom of a converted document. The production number or endorsement is then added to this additional space as to not cover or conceal any portion of the document. This allows each page within a document to be identified by a production number. SDS

performed this process in compliance of section 2 of the ESI Stipulation. The documents were catalogued as Bates numbers SWVHEC000701-010729.

8. On December 21, 2018, SDS completed converting the electronic files into .pdf files, SDS copied the documents onto an encrypted flash drive, and shipped one flash drive to Plaintiff's counsel and one to Assistant Attorney General Hardy.

9. On February 6, 2019, Assistant Attorney General Hardy provided to SDS another thumb drive containing one PST file. As with the December 21, 2018 production, SDS processed and converted the PST files into PDF files.

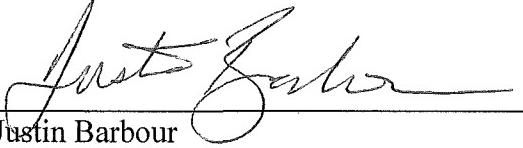
10. SDS issued an invoice on February 28, 2019, which the Center paid in full. SDS discovered thereafter that the invoice overcharged the Center and issued a replacement invoice (No. 976316A) that accurately reflected the charges for services rendered. SDS will reimburse the Center to compensate for the overcharge. A true and accurate copy of Superior Invoice No. 976316A has been attached hereto as **Exhibit 2**.

11. The processes described in Superior Invoice No. 976316A—specifically, “file conversions,” and “image endorsing”—are the same processes that were used for the December 21, 2018 production. The documents were catalogued as Bates numbers SWVHEC012498-023125.

12. SDS uploaded the documents onto a share site and provided Assistant Attorney General Hardy the credentials required to access and download the documents on February 7, 2019. I understand that access to the documents was given to Plaintiff's counsel on February 15, 2019.

I, Justin Barbour, declare under the penalty of perjury that the foregoing is true and correct.

Executed on: 9/26/2019



Justin Barbour
eDiscovery Manager
Superior Document Services